



**Testimony of Kimberly McCullough, Legislative Director
In Support of SB 641
Senate Committee on Judiciary
March 17, 2015**

Chair Prozanski and Members of the Committee:

Thank you for the opportunity to submit comments in support of SB 641, which affirms that individuals are entitled to smartphone privacy and that government agencies can only search a cell phone or other portable electronic device with a search warrant based on probable cause.

The type of data stored on a smartphone or other portable electronic device can paint a near-complete picture of even the most private details of someone's personal life. Before the age of smartphones, it was impossible for police to gather this much private information about a person's communication, historical movements, and private life during an arrest. Today, many police officers routinely search the contents of a person's cell phone during an arrest encounter. Sometimes officers do so with the aid of companies like Cellebrite¹ that produce tools that strip a cell phone of all of its data on the scene.

Such searches are a highly concerning invasion of privacy and are unconstitutional. In June of 2014 in *Riley v. California*, the Supreme Court unanimously ruled that police must obtain a warrant before searching the contents of a cell phone seized from someone who has been arrested, absent a true emergency situation.

SB 641 contains the following provisions:

- Directs that no information contained in a portable electronic device shall be subject to search by a state or local public body, including a search incident to a lawful arrest or for inventory purposes, except pursuant to a warrant or when there is an imminent threat to public safety.
- Requires expeditious return of any portable electronic device searched.
- Remedy for violation is that no information obtained in violation can be used in a court or other proceeding, nor used to establish reasonable suspicion or probable cause that an offense has been committed.

We urge you to support SB 641. Please feel free to contact me with any questions or concerns.

¹ <http://www.cellebrite.com/>